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**MAY 27 2008**

In re Application of	:	
Karel Van Den BERG	:	
Application No. 09/993,961	:	DECISION ON PETITION
Filed: November 27, 2001	:	
Attorney Docket No. 04132.0108.CPUS01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 16, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 19, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal filed April 16, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,050.00 extension of time fee submitted with the petition on February 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The power of attorney filed April 25, 2008 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application file is being referred to Technology Center AU 1792 for appropriate action on the concurrently filed amendment.

A handwritten signature in black ink, appearing to read "Michelle R. Eason", with a stylized flourish at the end.

Michelle R. Eason  
Paralegal Specialist  
Office of Petitions